

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NICHOLAS J. WILLING,

Plaintiff,

v.

STATE OF NEVADA,

Defendant.

Case No. 2:22-cv-00733-APG-DJA

ORDER

[ECF Nos. 22, 24, 25, 26]

Plaintiff Nicholas Willing has filed an “omnibus motion of manifest error opposition to Doc. 21.” ECF No. 22. I interpret his motion as a motion for reconsideration of my order (ECF No. 21) denying his prior motions for reconsideration, for default and default judgment, to disqualify all judges in this district, and to transfer venue. Willing’s latest motion offers no reason for me to reconsider my prior decisions, so I deny it.

Willing has also filed another motion for default, default judgment, and to be transported for a hearing. ECF Nos. 24, 25, and 26. This is at least the third time he has moved for default and default judgment. I denied his previous motions because Willing had not yet served the complaint and summons on the State of Nevada. ECF Nos. 10, 21. He still has not done so, and his present motion does not address that problem. He claims he sent copies of his complaint and a summons to the Nevada Attorney General’s Office by certified mail. ECF No. 24 at 15. But that is impossible as no summons has been issued by this court. He also files a receipt from Federal Express claiming to show he sent an unknown package to the Nevada Attorney General’s Office on November 11, 2022. ECF No. 23 at 2. But that does not satisfy the requirements for valid service under Federal Rule of Civil Procedure 4(j)(2). I therefore deny his

1 motion for default and default judgment because he has not properly served a summons and the
2 complaint upon the State of Nevada. And I deny his request for transport for a hearing as moot.

3 Federal Rule of Civil Procedure 4(m) provides, in part:

4 If a defendant is not served within 90 days after the complaint is filed, the court—on
5 motion or on its own after notice to the plaintiff—must dismiss the action without
6 prejudice against that defendant or order that service be made within a specified time.
But if the plaintiff shows good cause for the failure, the court must extend the time for
service for an appropriate period.

7 More than 90 days have passed since Willing filed his complaint in this case (ECF No. 6), and he
8 still has not served the State of Nevada. I have repeatedly informed him of the need to do so, yet
9 he has ignored that advice. I hereby notify Willing that I will dismiss this case unless he can
10 show good cause why he has not served the State of Nevada. Failure to comply with this notice
11 by **January 6, 2023** will result in dismissal of this action without prejudice.

12 I THEREFORE ORDER that Willing's motions (ECF Nos. 22, 24, 25, and 26) are
13 **DENIED.**

14 I FURTHER ORDER that Willing must show good cause for his failure to serve the State
15 of Nevada. Failure to comply with this notice by **January 6, 2023** will result in dismissal of this
16 action without prejudice.

17 DATED THIS 13th day of December, 2022.



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UNITED STATES DISTRICT JUDGE